

**IN THE DISTRICT COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. CROIX**

PETRO INDUSTRIAL SOLUTIONS, LLC  
(PETRO),

Plaintiff,

v.

ISLAND PROJECT AND OPERATING  
SERVICES, LLC, VITOL US HOLDING II  
CO., VITOL VIRGIN ISLANDS CORP,  
ANDREW CANNING and OPTIS  
EUROPE, LTD.,

Defendants.

CASE NO. 1:21-CV-00312

**BREACH OF CONTRACT**

JURY TRIAL DEMANDED

**REPLY TO VITOL DEFENDANTS' RESPONSE TO PLAINTIFF'S PROPOSED  
DEPOSITION PLAN**

**COME NOW** Plaintiff by and through undersigned counsel and replies to Vitol Defendants' response to Plaintiff's Proposed Deposition Plan.

The Defendants' representation that the extended deposition plan proposed by Plaintiff was because of Plaintiff's counsel's limited dates for depositions is patently false.

Plaintiff's counsel had many dates in March and earlier dates in April, however other Defendants' counsel were not available on those dates. For instance, IPOS' counsel has a trial in March which knocked out many dates. The same was true as to OPTIS's counsel who knocked out three weeks of dates due to knee surgery. Specifically on January 25, 2023, Plaintiff sent a letter to all counsel providing 29 dates for depositions beginning March 20, 2023 (Exhibit 1). In response, the Vitol Defendants sent an email providing only 18 days to schedule depositions, with 10 of them being dates they already knew Plaintiff

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was not available (Exhibit 2). Plaintiff responded that the proffered limited dates with no dates in June was unacceptable (Exhibit 3). OPTIS then sent an email indicating it was unavailable for 3 of the dates Plaintiff was available (Exhibit 4). Simone Francis then sent a letter indicating she was not available for 13 of the days Plaintiff had suggested (Exhibit 5). Clearly, the lack of dates to conduct depositions is not Plaintiff's counsel's doing, as Vitol has repeatedly falsely claimed, it is Vitol who only had limited dates for depositions, see Exhibit 2.

There is no trial date in this case and Plaintiff should be able to depose the witnesses against it despite Defendants limited dates to conduct depositions. The limited number of deposition dates is due to all counsel's limited available dates however Plaintiff's counsel proffered 29 dates within the deadline.

Further some of the witnesses are on very small finite issues like what caused a grate to almost collapse. These depositions will clearly be short, and these is absolutely no way they can take 7 hours. Another witness is simply a witness Defendant wants to depose as to whether he refused to take seriously Canning's complaint that he almost fell through the grating. He has little information on that issue and will be a short witness. In addition, the days that have two depositions with one being a Defendant is because the individual named for that day is also the 30(b)(6) witness. Finally, the two 30(b)(6) non-Defendant depositions that are on the same day are very short depositions mostly as to the condition of welds and welding related issues.

As to the depositions of Defendant IPOS witnesses on June 21 and 22, 2023, these

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witnesses could not be presented earlier by IPOS when Plaintiff sought to depose them during the extended period for fact discovery, so, as a courtesy to IPOS, Plaintiff agreed to move those depositions to dates selected by IPOS which were outside the deadline. As such, clearly IPOS also agrees to extend the deadline one week to June 22, 2023.

Further, it is false that Plaintiff scheduled two depositions on the same day but demanded 7 hours for each deposition. That discussion never occurred. Plaintiff specifically stated that the depositions should be able to both be completed in one day.

As to the Deposition of Adrian Melendez, Sr., due to Vitol's demand that it would only agree to one deposition a day, there was no time slot to put this deposition, just as there was no time slot for a deposition Plaintiff wanted to take. Further, given Vitol's limited number of dates within the discovery period, there are no other dates to schedule that deposition. Plaintiff cannot find what does not exist.

Plaintiff's counsel has now had the ability to speak to Chetam Persaud, Frank Kirsh and Elias Rivera and will produce them without subpoena if the other defendants will produce their employees without the need for subpoena.

As to Charlotte Horowitz and Tom Kologinczak, Plaintiff flipped Horowitz where Kologinczak had been and placed Kologinczak to an available deposition date, Vitol has not articulated anything that is wrong with that date. Further, again, Vitol's counsel falsely claims it suggested another available deposition date, they did not. They suggested a date Simone Francis has represented she is not available. There is nothing about the other depositions that week that would prevent his deposition that week. Plaintiff will not be

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suckered into picking an unavailable deposition date on the change that it might become available and then not be able to depose an important witness.

The extension of the deadline by one week, in a case with no trial date, should be granted. Particularly since Plaintiff would be prejudiced by Defendants' counsel's limited dates to schedule depositions during the fact discovery period, despite representing to the Court that they had plenty of dates for depositions and could provide dates during that period to complete all depositions when that wasn't a true representation and caused the Court to rely on those representations in setting the deadline.

RESPECTFULLY SUBMITTED  
LEE J. ROHN AND ASSOCIATES, LLC  
Attorneys for Plaintiff

DATED: February 17, 2023

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**CERTIFICATE OF SERVICE**

**THIS IS TO CERTIFY** that on February 17, 2023, I electronically filed the foregoing with the Clerk of the Court using the electronic filing system, which will send a notification of such filing to the following:

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